

**State of Maine
Department of Environmental Protection
Bureau of Land and Water Quality**

**General Permit for the Discharge of Stormwater from
Small Municipal Separate Storm Sewer Systems**

Public Notice Date: January 8, 2003

General Permit--Municipal Separate Storm Sewer Systems

Maine Pollutant Discharge Elimination System (MEPDES)

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PART I – General Permit Coverage

A. General coverage of this permit. This general permit authorizes the direct discharge of stormwater from or associated with a Regulated Small MS4 to a municipal separate storm sewer system (MS4) or waters of the state other than groundwater, provided that the discharge meets the requirements of this general permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. Compliance with this general permit authorizes a person to discharge stormwater, pursuant to 38 M.R.S.A. § 413, as described below. Discharges listed in Part I(C)(2-6) are excluded from coverage under this general permit. This general permit authorizes direct discharges in those parts of Maine for which the Department has received delegated authority under the federal NPDES program.

1. Effective date of authorization. This general permit is effective March 10, 2003, or on the date the NOI is accepted by the Department, pursuant to Part V(B) whichever is later and authorization to discharge under this general permit expires March 9, 2008.

2. Waiver of authorization. The Department may waive a person or MS4 from authorization under this general permit if

- The population within the Urbanized Area portion of the municipality is less than 1,000, and stormwater from the MS4 is not causing the impairment of a receiving water body; and
- The MS4 does not contribute substantially to the pollutant load of a physically interconnected MS4.

B Authority. A permit is required for the direct or indirect discharge of pollutants to waters of the State.¹ A general permit may be issued for point discharges (direct discharges) of stormwater.² A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under 38 M.R.S.A. § 349, and § 309 of the Clean Water Act. Nothing in this general permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This general permit does not affect requirements under other applicable Maine statutes such as Site Location of Development (Site Law), Stormwater Management, and Natural Resources Protection (NRPA).

This general permit does not prevent a permittee from adopting stricter standards than contained in this general permit, or in state or federal law.

C. Limitations on coverage. This general permit does not authorize a stormwater discharge that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. The

¹ See 38 M.R.S.A. § 413.

² See 06-096 CMR 529(2)(a)(2)(i).

Department may require any person with a discharge authorized by this general permit to apply for and obtain an individual permit or an alternative general permit.³ When the DEP notifies an applicant that an individual permit or an alternative general permit is required, no work may be begun or continued unless and until the individual permit is obtained. Any interested person may petition the Department to take action under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.⁴

1. Compliance with this general permit. This general permit does not authorize a stormwater discharge that is not in compliance with the requirements of this general permit. If the Department determines that the standards of this general permit have not been met, the Department shall notify the person and may:

- a. Authorize coverage under this general permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this general permit and water quality standards have been implemented as determined by the Department;
- b. Require an individual waste discharge permit; or
- c. Inform the person that the discharge is prohibited.

Compliance with this subparagraph does not preclude any enforcement activity under Maine law for an underlying violation.

2. Non-stormwater. This general permit does not authorize discharges that are mixed with sources of non-stormwater, other than those discharges in compliance with Part IV (D)3(b).

3. Discharge of hazardous substances, chemicals, or oil. This general permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.

4. Total maximum daily load (TMDL). This general permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL for the waterbody to which the direct discharge drains. This general permit does not authorize a discharge to an impaired waterbody for which the Department has issued a watershed-specific MS4 general permit.

5. Violation of water quality standards. This general permit does not authorize a discharge that may cause or contribute to a violation of a water quality standard.

6. Other waste discharge permit. This general permit does not authorize a stormwater discharge associated with construction activity that requires an individual MEPDES permit or waste discharge license (WDL) or is required to obtain coverage under another waste discharge general permit.

7. Waste discharge license (groundwater). A WDL may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see 06-096 CMR 543.

A “subsurface fluid distribution system” is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A “well” is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system.

³ See 06-096 CMR 529(2)(B)(3).

⁴ 06-096 CMR 592(2)(B)(3)(i)(A)-(G)

“Well injection” means the subsurface discharge of fluids into or through a well.

PART II -- Definitions

In addition to the definitions found in Chapter 520 of the Department's rules, and applicable statutory definitions, the following terms have the following meanings when used in this general permit.

- A. Best Management Practices (BMP).** “Best Management Practices” or “BMPs” means those practices, that reduce pollution and that have been determined by the Department to be acceptable based on, but not limited to technical, economic, and institutional feasibility.
- B. Construction activity.** "Construction activity" or "activity" means:
1. Construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre; or
 2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.
- C. Department.** "Department" means the State of Maine Department of Environmental Protection.
- D. Discharge.** "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to "waters of the state".⁵ "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.⁶
- E. Disturbed area.** "Disturbed area" is clearing, grading and excavation.⁷ Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area". "Disturbed area" does not include routine maintenance of an impervious area within the footprint of that impervious area, but does include redevelopment. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility.
- F. Illicit Discharge** “Illicit Discharge” means any non-permitted discharge to a MS4 or to the waters of the state that does not consist entirely of stormwater or allowable non-stormwater discharges identified in Part III A (2).
- G. Maximum Extent Practicable (MEP).** “Maximum Extent Practicable” or “(MEP)” Available and feasible considering cost, existing technology, and logistics based on the overall purpose of the project
- H. Municipal Separate Storm Sewer System (MS4).** “Municipal separate storm sewer system” or “(MS4)” means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works

⁵ See 06-096 CMR 520(2).

⁶ See 38 M.R.S.A. § 466(5) (definition of "direct discharge") and 06-096 CMR 520 (definition of "point source").

⁷ See 06-096 CMR 521(9)(b)(14)(x) and 40 CFR 122.26(b)(15).

and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency and discharging directly to surface waters of the state.

- I. Notice of Intent (“NOI”).** “Notice of Intent” or “NOI” means a notification of intent to seek coverage under this general permit, as provided in Part IV(A), made by the applicant to the Department on a form provided by the Department.
- J. Person.** “Person” means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity which creates, initiates, originates or maintains a discharge authorized by this general permit.⁸
- K. Registrant.** “Registrant” means a municipality, sanitary or sewerage district, State agency or Federal agency, which files a registration pursuant to Section IV of this general permit.
- L. Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 authorized by this general permit including all those located partially or entirely within an Urbanized Area and those additional Small MS4s located outside an Urbanized Area which, as of the issuance of this general permit, have been designated by the Department as Regulated Small MS4s. A list of these MS4s is included in Appendix A of this general permit.
- M. Small MS4.** “Small MS4” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State- and Federally-owned systems, such as colleges, universities, prisons, MDOT and MTA road systems and facilities, and military bases and facilities located within an Urbanized Area.
- N. Stormwater.** “Stormwater” means storm water runoff, snowmelt runoff, and surface runoff and drainage. “Stormwater” has the same meaning as “storm water”.
- O. Total Maximum Daily Load (TMDL)** “Total Maximum Daily Load” or “(TMDL)” means the maximum capacity of a surface water to assimilate a pollutant as established by the Department including pollutants contributed by point and non-point sources and a margin of safety.
- P. Urbanized Area (UA).** “Urbanized Area” or “UA” means the areas of the state of Maine so defined by the U.S. Census Bureau, for the 2000 census.

Part III. Procedure

- A. NOI requirements** Any regulated or designated MS4 municipality that initiates, creates, originates or maintains a discharge described in Part I of this general permit shall file with the Department a two-part NOI registration form that meets the requirements of this section of this general permit. Part A of the NOI must be submitted on or before March 10, 2003. Part B of the NOI must be submitted on or before May 9, 2003.
- B. Scope of NOI.** A Permittee shall register on one set of NOI forms for all discharges that are operated by the regulated municipality. A municipality may not submit more than one registration under this general permit.
- C. Contents of NOI**
 - 1. Part A, NOI Form.** Part A of the NOI must be filed on a form provided by the Department and must include the

⁸ See 38 M.R.S.A. § 361-A(4).

following.

- a. Name of the municipality and the name, title, address, and telephone number of the chief elected official or principal executive officer.
- b. Name, address, and telephone number of the primary contact person for the municipality.
- c. Name, primary contact, address, and telephone number of any consultant(s) or engineer(s) retained by the municipality to prepare the registration.
- d. Name of receiving stream(s), watershed(s) or waterbody(s) to which the MS4 discharges.

2. Part B, NOI Form. Part B of the NOI must be filed on a form prescribed and provided by the Department and must include the following.

- a. Name of the municipality and the name, title, address, and telephone number of the chief elected official or principal executive officer.
- b. For each of the six Minimum Control Measures in Part IV(D), the following information must be included:
 - (i) The measurable goal(s) by which each BMP will be evaluated;
 - (ii) The person(s) responsible for implementing each BMP; and
 - (iii) The date by which each BMP will be implemented.
- c. Resources that may be used in the development of BMPs and measurable goals include, but are not limited to, the following:

EPA's BMP menu: <http://www.epa.gov/npdes/menuofbmps/menu.htm>

EPA's guidance on Measurable goals:

<http://www.epa.gov/npdes/stormwater/measurabelgoals/index.htm>

MDOT's Best Management Practices for Erosion & Sedimentation Control:

<http://www.state.me.us/mdot/mainhtml/bmp/bmprevision90602.pdf>

Maine's Phase II Municipal Guidance Document

- d. The signature of the chief elected official or principal executive officer of the municipality and any individual or individuals responsible for actually preparing the registration, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with Maine General Statutes.

I certify that this permit registration is on complete and accurate forms as prescribed by the Department without alteration of the text.

I also certify under penalty of law that I have read and understand all requirements of the General Permit for the Discharge of Stormwater from a Municipal Separate Storm Sewer System issued on March 10, 2003.

I certify that all requirements for authorization under the general permit are met and that a system is in place to ensure that all terms and conditions of this general permit will continue to be met for all discharges authorized by this general permit for the municipality. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly making false statements.”

- 3. Where to file a registration form.** A registration must be filed with the Department at the following address:

**Stormwater Phase II Coordinator
Bureau of Land & Water Quality
Department Of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017**

- 4. Additional information.** The Department may require a registrant to submit additional information that the Department reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this general permit.

5. Action by Commissioner

- a. The Commissioner may deny a registration:
 - (i) If the registration does not satisfy the requirements of Part IV (C) of this general permit. In the case of such a denial, the registrant shall re-file a modified registration within 30 days; or
 - (ii) If more than 30 days have elapsed since the Commissioner requested that the registrant submit additional information and the registrant has not timely and completely submitted such information.
- b. The Commissioner shall deny a registration:
 - (i) If the subject activity is ineligible for this general permit, or that the registrant cannot or is unlikely to comply with this general permit; or
 - (iii) For any other reason provided by law.
- c. Disapproval of a registration constitutes notice to the registrant that the subject activity may not lawfully be conducted or maintained without issuance of an individual MEPDES permit or WDL.
- d. Disapproval of a registration must be in writing.

Part IV. Requirements

The Permittee shall at all times continue to meet the requirements for authorization set forth in Part III of this general permit. In addition, a Permittee shall assure that authorized activities are conducted in accordance with the following conditions:

- A. Stormwater program management plan** The Permittee must develop, implement, and enforce a Stormwater

Program Management Plan (the Plan) designed to reduce the discharge of pollutants from the Small MS4 to the maximum extent practicable to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The Plan shall be completed and all Minimum Control Measures fully implemented by March 9, 2008.

- B. Annual fee.** An annual fee of \$150.00 must be submitted each year, starting March 10, 2004 with the submission of the annual report. Fees must be paid by check or money order payable to **Treasurer, State of Maine.**
- C. Development of stormwater program management plan.** The Plan must address the six Minimum Control Measures as indicated in this section. The Plan must, at a minimum, include the measures indicated as required within the Urbanized Area of the municipality. The Permittee may also include in the Plan those measures indicated as suggested and any other measures the Permittee deems appropriate. Some municipalities may choose to implement required measures or portions thereof throughout the entire municipality.
- D. Minimum control measures.** For each Minimum Control Measure, the Permittee must: define appropriate BMPs; designate a person(s) responsible for each BMP; define a time line for implementation of each BMP; and define measurable goals for each BMP. The Minimum Control Measures to be included in the Plan are as follows.

1. Public education and outreach on stormwater impacts

a. Required:

- i. The Permittee shall educate municipal/community members on stormwater runoff and its impacts to surface waters.
- ii. Educational efforts must cover industrial, commercial, institutional, governmental and residential activities based on their occurrence in the community, and inform municipal/community members about improper waste disposal and illegal discharges that could pollute waters of the state.
- iii. Outreach materials must aim at raising awareness and ultimately at changing behaviors.
- iv. Outreach messages and topics must target behaviors in the municipality/community that have the highest impact on water quality and quantity, especially in sensitive areas as defined by the State of Maine and the local community. Messages must include steps intended to reduce stormwater pollution from existing and new development. The outreach effort must include a multimedia approach recognizing messages need to be both presented and received in more than one venue to be effective.

b. Suggested:

- i. To implement a successful program the Permittee should consider the range of economic and cultural groups within the community and provide them with learning and behavioral changing opportunities.
- ii. The Permittee should evaluate the relative importance of various threats to stormwater quality within its jurisdiction. Public education programs should then be prioritized to focus on the most significant threats.
- iii. The Permittee should consider existing local, tribal, regional, other MS4s and state programs, both in Maine and elsewhere, as potential resources, and coordinate their activities with local and regional groups, and state and federal agencies.

Whenever possible the Permittee is encouraged to borrow/use proven effective materials from other

sources. By using proven materials, the Permittee can save both time and money.

- iv. The Permittee should consider intermunicipal agreements to increase the efficiency and effectiveness of their efforts.
- v. Watersheds, streams and rivers frequently cross political boundaries. DEP recommends that municipalities sharing a common water body pool their time and resources and work together to improve water quality and quantity.
- vi. The Permittee should work with local school districts to integrate water quality education into the curriculum.

2. Public Involvement/Participation

a. Required:

- i. The Permittee must comply with applicable state and local Public Notice requirements using effective mechanisms for reaching the public.

b. Suggested:

- ii. The Permittee should identify important stakeholders and encourage their involvement in the Stormwater Management Program.
- iii. The Permittee should provide opportunities for public participation in the development, implementation, and review of the MS4's Stormwater Management Program.
- iii. The Permittee should consider the range of economic and ethnic groups within the community and encourage their participation in the Stormwater Management Program.

3. Illicit discharge detection and elimination

a. Required:

- i. Develop, implement and enforce a program to detect and eliminate illicit discharges and non-stormwater discharges, as defined in 06-096CMR521(9)(b)(2), except as provided in Part VI 3(b) into any small regulated MS4;
- ii. Develop, if not already completed, a storm sewer system map showing all stormwater discharges from a pipe or conduit with a diameter of 18" or greater (or equivalent cross-sectional area) operated by the MS4. For each discharge the following information must be included:
Type, material, and size of conveyance, outfall or channelized flow (e.g. 24" concrete pipe);
The name of the immediate surface waterbody or wetland to which the stormwater runoff discharges;
If the outfall does not discharge directly to a named waterbody, the name of the nearest named waterbody to which the outfall eventually discharges;
- iii. To the extent allowable under State or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-stormwater discharges into the storm sewer system, and implement appropriate enforcement procedures and actions; and

- iv. Develop and implement a plan to detect and address non-stormwater discharges, including illicit discharges and illegal dumping, to the system. The plan must include the following three components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; and procedures for removing the source of the discharge.
- b. This permit authorizes following non-stormwater discharges provided they do not contribute to a violation of water quality standards; these discharges must be addressed in the Plan if they are identified by the Permittee as causing or contributing to a water quality violation:
 - landscape irrigation,
 - diverted stream flows,
 - rising ground waters,
 - uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
 - uncontaminated pumped ground water,
 - uncontaminated flows from foundation drains,
 - air conditioning condensate,
 - irrigation water,
 - flows from uncontaminated springs,
 - uncontaminated water from crawl space pumps,
 - uncontaminated flows from footing drains,
 - lawn watering runoff,
 - flows from riparian habitats and wetlands,
 - residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used), and
 - fire fighting activity runoff.
 - discharges from potable water sources provided that the discharge is done during a wet weather event, high stream flows, or to a vegetated buffer.

4. Construction site stormwater runoff control

a. Required:

Develop, implement, and enforce a program, or modify an existing program, to reduce pollutants in any stormwater runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre shall be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The program shall include, but not be limited to, the development and implementation of:

- i. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions for non-compliance, to the extent allowable under State or local law;
- ii. Procedures for notifying construction site developers and operators of the requirements for registration under the General Permit for the discharge of stormwater associated with construction activities;
- iii. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices in accordance with state law and any local requirements;
- iv. Requirements for construction site operators to control waste at the site such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste that may cause adverse impacts to water quality;

- v. Procedures for site plan review that incorporate consideration of potential water quality impacts;
- vi. Procedures for receipt and consideration of information submitted by the public; and
- vii. Procedures for site inspection and enforcement of control measures.

b. Suggested:

The Permittee should consider existing state programs that regulate either construction, such as the Small Construction General Permit, or stormwater, such as the Stormwater Management Law or the Site Law or the Maine Erosion and Sedimentation Control Law that the MS4 can reference or incorporate into a local ordinance.

5. Post-construction stormwater management in new development and redevelopment.

a. Required:

- i. Develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4 or directly to waters of the State. This program shall ensure that controls are in place that will prevent or minimize water quality impacts;
- ii. Develop and implement strategies that include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community;
- iii. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law;
- iii. Ensure adequate long-term operation and maintenance of BMPs.

b. Suggested:

The Permittee should consider existing state programs that regulate post construction, such as the requirements for managing stormwater quality and quantity as listed in the stormwater management law or the site law that the MS4 can reference or incorporate into a local ordinance.

6. Pollution prevention/good housekeeping for municipal operations.

a. Required:

- i. Develop and implement an operation and maintenance program that includes a training component for municipal employees and contractors and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations;
- ii. Using training materials that are available from the EPA, the State or other organizations, this program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance;

- iii. Develop and implement a program to sweep all publicly accepted paved streets and publicly owned paved parking lots at least once a year as soon as possible after snowmelt;
- iv. Develop and implement a program to evaluate and, if necessary, clean catch basins and other stormwater structures that accumulate sediment at least once a year and dispose of the removed sediments in accordance of current state law; and
- v. Develop and implement a program to evaluate and, if necessary, prioritize for repairing, retrofitting or upgrading the conveyances, structures and outfalls of the MS4.

b. Suggested: at a minimum, consider the following in developing your program:

- i. Structural and non-structural stormwater controls to reduce floatables and other pollutants discharged from your separate storm sewers;
- ii. Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, snow disposal areas, and waste transfer stations;
- iii. Procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and
- iv. Ways to ensure that new flood and stormwater management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices; and
- v. Implement an operation and maintenance as plan for all stormwater management structures. This measure is intended to improve the efficiency of these systems and require new programs where necessary.

E. Sharing responsibility

- 1. Qualifying local program.** The Permittee may satisfy the requirement to implement a BMP for a Minimum Control Measure by having a third party implement the BMP. For example, if a local watershed organization performs an annual “river clean-up”, this event may be used to satisfy a BMP for the Public Participation and the Pollution Prevention and Good Housekeeping Minimum Control Measure.

If the Permittee is relying on a third party to implement one or more BMP(s), the Permittee shall note that fact in the registration and annual report required in section VI (G). If the third party fails to implement the BMP(s), the Permittee remains responsible for its implementation.

- 2. Qualifying state or federal program.** If a BMP or Minimum Control Measure is the responsibility of a third party under another MPDES permit, the Permittee is not required to include such BMP or Minimum Control Measure in its stormwater management program. The Permittee shall reference this qualifying program in their Stormwater Management Plan. However, the Permittee is not responsible for its implementation if the third party fails to perform. The Permittee shall periodically confirm that the third party is still implementing this measure. If the third party fails to implement the measure, the Plan may be modified to address the measure, if necessary.

In the case of a permitted municipal industrial activity, such as a publicly owned treatment works, covered by the Multi Sector General Permit, the Permittee may reference the activity's Stormwater Pollution Prevention Plan to address a portion of the Permittee's Stormwater Management Plan.

- 3. Co-permittees.** Where a portion of the separate storm sewer system within a municipality is owned, operated or otherwise the responsibility of another MS4, the two entities may coordinate the development and implementation of their respective Plans to address all elements of Part VI A (1-6). At the very least, a clear description of their respective responsibilities for these elements shall be included in each MS4's Plan.

For example, a storm sewer system within a municipality may be operated and maintained by the MDOT, University of Maine or other public or quasi-public authority. In cases such as these, the two entities shall attempt to work cooperatively and coordinate their Plans to reduce duplicative efforts to address the Minimum Control Measures, particularly at the interconnections within storm sewer systems. Where an illicit discharge is detected from an outfall near an interface between two storm sewer systems and where there is more than one responsible entity, the two entities shall coordinate their efforts to detect and ultimately eliminate the cause of the illicit discharge. These efforts shall be noted in both the MS4's annual reports.

F. Signature requirements

- 1. Signature.** The Plan must be signed by the chief elected municipal official or principal executive officer. The Plan must be retained by the chief elected official or principal executive officer and copies retained by municipal officials or employees responsible for implementation of the Plan.
- 2. Plan availability.** The Permittee shall make a copy of the Plan available to the following immediately upon request:
 - (a) The Commissioner;
 - (b) In the case of an MS4 adjacent to or interconnected with the Permittee's storm sewer system, to the operator of that MS4;
 - (c) In the case of an MS4 stormwater discharge to a water supply watershed, to the public water supply company.

G. Keeping plans current. The Permittee shall keep the plan current. Circumstances when the plan must be amended include the following:

- 1. Amended plan.** The plan must be amended if the Department or the Permittee determines that:
 - a. The actions required by the Plan fail to ensure or adequately protect against pollution of the waters of the State;
 - b. The plan does not prevent the potential for a significant contribution of pollutants to waters of the State; or
 - c. The plan does not meet one or more requirements of this general permit.
- 2. Department notification.** The Department shall notify the Permittee if Department determines that the Plan must be amended. Within 30 days of such notification, unless otherwise specified by the Department in writing, the Permittee shall respond to the Department indicating how they plan to modify the Plan to address these requirements. Within 90 days of this response or within 120 days of the original notification, whichever is less, unless otherwise specified by the Department in writing, the Permittee shall then revise the Plan, perform all actions required by the revised Plan, and certify to the Department that the requested changes have been made and implemented.

- 3. Permittee information.** The Permittee shall provide such information as the Department requires to evaluate the Plan and its implementation.

H. Failure to prepare or amend the plan. Failure to complete or update a Plan in accordance with Part V(A) and VI of this general permit does not relieve a Permittee of responsibility to implement actions required to protect the waters of the state and to comply with all conditions of this general permit.

I. Evaluation and assessment

1. Required:

- a. The Permittee must evaluate program compliance, the appropriateness of identified best management practices, and progress towards achieving identified measurable goals.

2. Suggested monitoring:

- a. Stormwater monitoring should be conducted by the Regulated Small MS4 annually starting in 2004. At least two outfalls apiece should be monitored from areas of primarily industrial development, commercial development and residential development, respectively, for a total of six (6) outfalls monitored. Each monitored outfall should be selected based on an evaluation by the MS4 that the drainage area of such outfall is representative of the overall nature of its respective land use type.

- b. Parameters to be monitored

The parameters to be monitored for each discharge point should include:

pH (SU)
Hardness (mg/l)
Conductivity (umos)
Oil and grease (mg/l)
Chemical Oxygen Demand - (mg/l)
Turbidity (NTU)
Total Suspended Solids - (mg/l)
Total Phosphorous - (mg/l)
Ammonia (mg/l)
Total Kjeldahl Nitrogen (mg/l)
Nitrate plus Nitrite Nitrogen (mg/l)
E. coli (col/100ml)

In addition to this list of parameters, uncontaminated rainfall pH shall be measured at the time the runoff sample is taken.

- c. The following procedures are strongly recommended if the MS4 elects to monitor:

- i. Samples shall be collected from discharges resulting from a storm event that is greater than 0.1 inch in magnitude and that occurs at least 72 hours after any previous storm event of 0.1 inch or greater. Runoff events resulting from snow or ice melt cannot be used to meet the minimum annual monitoring requirements. Grab samples shall be used for all monitoring. Grab samples shall be collected during the first 3 hours of a storm event discharge. The uncontaminated rainfall pH measurement shall also be taken at this time. Samples for all discharges shall be taken during the same storm event.
- ii. The following information should be collected for the storm events:

- d. The date, temperature, time of the start of the discharge, time of sampling, and magnitude (in inches) of the storm event.
- e. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

J. Reporting & record keeping requirements. The Permittee shall keep records required by this permit for at least 3 years following its expiration, or longer if requested by the Commissioner. The Permittee shall make records, including the Stormwater Management Plan, available to the public at reasonable times during regular business hours.

By March 10, 2004 and annually thereafter by March 10, the Permittee must submit a report to:

**Stormwater Phase II Coordinator
Department Of Environmental Protection
Bureau of Land & Water Quality
17 State House Station
Augusta, Maine 04333-0017**

The report must include:

1. The annual fee of \$150.00;
2. The status of compliance with permit conditions, an assessment of the appropriateness of identified best management practices and progress towards achieving identified measurable goals for each of the Minimum Control Measures;
3. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;
4. A summary of the stormwater activities the Permittee intends to undertake pursuant to its plan during the next reporting cycle; and
5. A change in any identified measurable goals that apply to the Plan.

K. Total Maximum Daily Load (TMDL) Allocations. Impaired waters and total maximum daily load (TMDL). If the waterbody to which a discharge drains is impaired, then the discharge may not cause or contribute to a violation of a water quality standard. If the waterbody to which a discharge drains is impaired and has an EPA approved TMDL, then the discharge must be consistent with the TMDL. If a TMDL is approved or modified by EPA subsequent to the effective date of this general permit, the Department shall notify the permittee and may:

1. Require the permittee to review its plan for consistency with the TMDL, and propose any necessary modification to the plan to the Department within six months of the receipt of notification concerning the TMDL;
2. Issue a watershed-specific general permit for the area draining to the impaired waterbody. If such a watershed-specific general permit is issued, it replaces this general permit for purposes of activities otherwise regulated under this general permit. The watershed-specific MS4 general permit may reference parts of this general permit; or

3. Require an individual permit.

PART V -- Standard Conditions

- A. Notice required.** Prior to discharging under the terms of a General Permit, a person must file with the Department an initial Notice of Intent (NOI) for coverage on a form provided by the Department for the specific discharge category. A copy of the initial NOI form shall be provided to the municipal office of the town or city in which the discharge will occur at the time it is submitted to the Department. A check for the appropriate fee amount must accompany each NOI in order for the application for coverage under the General Permit to be considered to be complete.
- B. Effective date of coverage.** The Department must notify an applicant for coverage under a General Permit within 14 days of receipt of each complete NOI as to whether or not coverage for the specific discharge is accepted. If the Department does not notify the applicant within 14 days, the NOI is deemed to be accepted and coverage is granted. In the event coverage is not granted, the Department shall notify the applicant of the reasons for not granting coverage. Discharges not acceptable for General Permit coverage may apply for issuance of an individual discharge permit.
- C. Continuing coverage.** Coverage under an existing General Permit will be continued upon payment of a \$150.00 annual fee, provided there are no changes in the discharge as described in the NOI. If changes occur or are proposed, the person having filed the NOI must notify the Department, as specified in the General Permit. Upon reissuance of a new General Permit, persons wishing to continue coverage must so notify the Department.
- D. Transfers of ownership.** In the event that the ownership of a discharge is transferred to a new owner, coverage under a General Permit may be transferred by notifying the Department in writing, provided the new owner proposes no changes in the discharge. If changes in the discharge are proposed, a new NOI must be filed.
- E. General restrictions.** A discharge covered by a General Permit may not:
1. Be to a body of water classified as Class GPA, AA, A or SA;⁹
 2. Be to a body of water having a drainage area of less than 10 square miles;
 3. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water;
 4. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
 5. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.
- F. Sampling and test procedures.** Where a General Permit requires sampling and testing of an effluent of other waste stream, all samples and measurements shall be representative of the volume and nature of the activity being monitored. The sampling, preservation, handling and analytical methods used must conform with Standard Methods for the Examination of Water and Waste Water, American Public Health Association, Washington, D.C., latest approved

⁹ This standard condition is required by 06-096 CMR 529(3), effective January 12, 2001. However, note that 38 M.R.S.A. 465-A(1)(C), 465(1)(C) allow discharge of stormwater to GPA, AA and SA waters if the discharge is in compliance with state and local requirements. For requirements applicable to discharges to Class A waters, see 38 MRSA 465(2)(C). The Department is considering proposing emergency legislation to allow similar stormwater discharges to Class A waters and to watersheds of less than 10 square miles.

edition or methods referenced in 40 CFR Part 136. However, different but equivalent methods are allowable if they receive prior written approval from the Department.

- G. Monitoring requirements.** In addition to monitoring required by the conditions of specific General Permit, the Department may require additional monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.
- H. Removed substances.** Solids, sludges, filter backwash or other pollutants removed or resulting from the treatment of wastewaters shall be disposed of in a manner approved by the Department.
- I. Other applicable conditions.** The following conditions also apply to discharges pursuant to any General Permit and are incorporated herein as if fully set forth.
1. Chapter 523, Section 2 (applicable to all discharges)
 2. Chapter 523, Section 3 (applicable to certain categories of discharges)
- J. Duty to mitigate.** The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.
- K. Duty to provide information.** The Permittee shall furnish to the Department or an authorized representative of the Department any information that is requested to determine compliance with this general permit or other information.
- L. Other information.** When the Permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.-
- M. Inspection and entry.** The Permittee shall allow employees and agents access as provided by 38 M.R.S.A. § 347-C. Filing of an NOI under this general permit authorizes access to the property by DEP and its representatives for the purpose of determining compliance with this general permit and Maine's waste discharge statutes and rules.
- N. Endangered Species.** Pursuant to 38 M.R.S.A. § 7755-A, A state agency or municipal government shall not permit, license, fund or carry out projects that will:
- A.** Significantly alter the habitat identified under section 7754 subsection 2 of any species designated as threatened or endangered under this subchapter; or
 - B.** Violate protection guidelines set forth in section 7754, subsection 3.
- O. Individual Permit** When an individual permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative general permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

Appendix A

Regulated Small MS4 Municipalities

Auburn
Bangor
Berwick
Biddeford
Brewer
Cape Elizabeth
Cumberland
Eliot
Falmouth
Freeport
Gorham
Hampden
Kittery
Lewiston
Milford
Old Orchard Beach
Old Town
Orono
Portland
Sabattus
Saco
Scarborough
South Berwick
South Portland
Veazie
Westbrook
Windham
Yarmouth